

8-20-17

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

PROFESSIONAL FIREFIGHTERS
ASSOCIATION OF OMAHA, LOCAL 385,
AFL-CIO CLC,

and

STEVE LeCLAIR, individually and in his
capacity as President of the Professional
Firefighters Association of Omaha, Local 385,

Plaintiffs,

v.

JEAN STOTHERT, Mayor of the City of
Omaha, and MICHAEL F. McDONNELL,
Fire Chief of the City of Omaha, each in their
official capacities,

and

CITY OF OMAHA, NEBRASKA,
A Municipal Corporation,

Defendants.

Case No. CI 13 - 5917.

ORDER

This matter came before the Court on a motion for temporary injunction. The parties appeared by counsel, Plaintiffs being represented by John E. Corrigan and Defendants represented by Bernard in den Bosch and Michelle Peters. Evidence was adduced, arguments were made by counsel and the matter was taken under advisement. The Court has considered the evidence presented and for the reasons set forth hereinafter finds that Plaintiffs' request for a temporary injunction must be denied.

The evidence before the Court shows that the Defendant Mayor of the City of Omaha has proposed a budget which arguably could have a deleterious effect on the safety of firefighters and therefore may be a breach of the contract entered into between the Plaintiff, Professional

Firefighters Association and the City of Omaha. However, the proposal of a budget does not create a budget and this Court determines that this case is not ripe for decision until a budget has been approved by the City Council of the City of Omaha. In Pennfield Oil Co. vs. Winstrom, 276 Neb. 123, 140, 752 N.W.2d 588, (2008): The Supreme Court said "ripeness is a justiciability doctrine that courts consider in determining whether they may properly decide a controversy. The fundamental principle of ripeness is that courts should avoid entangling themselves, through premature adjudication, in abstract disagreements based on contingent future events that may not occur at all or may not occur as anticipated. Generally, a case is ripe when no further factual development is necessary to clarify a concrete legal dispute susceptible to specific judicial relief, as distinguished from an advisory opinion regarding contingent future events." In this instance, this Court declines to enter into the political sphere (which it is not permitted to do in any event) by issuing an advisory opinion concerning the Defendant Mayor's proposed budget.


The denial of the temporary injunction herein is, in this Court's opinion, dispositive of this action since the entire action is not yet ripe for determination.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiffs' request for a temporary injunction be and the same is hereby denied; and

IT IS FURTHER ORDERED that this case be and the same is hereby dismissed for lack of subject matter jurisdiction based on ripeness.

DATED this 19th day of August, 2013.

BY THE COURT:



JAMES T. GLEASON
District Court Judge